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Attorneys for Defendant, WINNEBAGO  
INDUSTRIES, INC.

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

ALFRED SIMS,

Plaintiff,

v.

WINNEBAGO INDUSTRIES, INC.; and  
DOES 1 to 10, inclusive,

Defendant.

Case No. 2:23-cv-00686-JAM-JDP

**STIPULATION AND ORDER FOR  
PHYSICAL EXAMINATION OF  
PLAINTIFF ALFRED SIMS**

Complaint filed: March 1, 2023  
Trial date: August 4, 2025

Judge: Hon. John A. Mendez  
Ctm: 6

Plaintiff ALFRED SIMS (“Plaintiff”) and Defendant WINNEBAGO INDUSTRIES, INC.  
 (“Defendant”) agree and stipulate that Plaintiff shall submit to a physical examination pursuant to  
 Federal Rules of Civil Procedure, Rule 35:

1. A controversy exists regarding the physical condition of Plaintiff and good cause  
 exists for a physical examination of Plaintiff.

2. The examination will be conducted for the purpose of determining the nature and  
 extent of Plaintiff’s physical injuries.

3. The scope of the examination will be the physical injuries at issue in litigation,  
 including, but not limited to, Plaintiff’s left ankle.

1           4.       Plaintiff will not submit to any painful, protracted, or intrusive studies or tests and  
2 specifically refuses to submit to any additional x-rays, EEG, EMG, blood tests, urinalysis, or  
3 photographs, nor will Plaintiff disrobe for the examination.

4           5.       Plaintiff will not discuss how the accident, which gives rise to this litigation,  
5 occurred, other than to describe it in general terms. If the examiner requires further information  
6 as to the mechanics of the accident, defendants' counsel can provide a copy of the incident accident  
7 or a transcript of plaintiff's deposition to the doctor.

8           6.       Plaintiff will answer any reasonable relevant medical history questions posed by  
9 the examiner. Plaintiff will not provide a written medical history. Should such a written medical  
10 history be required, defendant's counsel may provide either copies of plaintiff's deposition and/or  
11 medical records.

12           7.       Other than questions seeking reasonable and relevant medical history, all other  
13 medical history questions will not be answered. A lifetime medical history is not authorized.  
14 Plaintiff will answer all questions relating to the injuries sustained in the accident at issue in this  
15 lawsuit, but reserves Plaintiff's right to privacy as to unrelated medical issues and history. See  
16 *Britt v. Superior Court* (1978) 20 Cal.3d 844.

17           8.       Plaintiff may not be compelled to create any items of documentary evidence and  
18 will not fill out any charts, new patient records, forms, or histories that may be requested or  
19 provided by the defense medical examiner. To do so would violate plaintiff's right not to create  
20 items of demonstrative evidence for defendant's use.

21           9.       Plaintiff will not assume financial responsibility for any of the medical billings  
22 arising as a result of this defense medical examination nor will plaintiff execute an assignment of  
23 benefits form.

24           10.      The physical examination will be conducted by Patrick J. McGahan, MD, a licensed  
25 physician with a specialty in Orthopedic Surgery, an independent medical exam physician retained  
26 by Defendant. Attached to this stipulation as **Exhibit A** is a true and correct copy of Dr.  
27 McGahan's Curriculum Vitae setting forth his qualifications and background.

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11. The date and time for the physical examination will be **September 26, 2024**, at **8:00 a.m.**

12. The location for the examination is: **450 Sutter Street, Ste. 400, San Francisco, California.**

13. Dr. McGahan's contact information is: Advanced Orthopedics & Sports Medicine, 450 Sutter Street, Suite 400, San Francisco, CA 94108 (415) 900-3000.

14. It is further stipulated that Defendant will be responsible for the fees associated with this examination.

15. However, Plaintiff agrees to reasonably comply with Dr. McGahan's cancellation policy and must advise Defendant if he is unable to attend the examination at least two (2) business days before the examination.

Dated: September 4, 2024

**MATHENY SEARS LINKERT & JAIME LLP**

By: /s/ Matthew C. Jaime

MATTHEW C. JAIME,  
Attorneys for Defendant WINNEBAGO  
INDUSTRIES, INC.

Dated: September 4, 2024

**CASPER MEADOWS SCHWARTZ & COOK**

By: /s/ Adam Carlson

ADAM CARLSON,  
Attorneys for Plaintiff ALFRED SIMS

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**ORDER**

Pursuant to Plaintiff and Defendant's STIPULATION RE: PHYSICAL EXAMINATION OF PLAINTIFF ALFRED SIMS and for good cause shown, the above STIPULATION AND ORDER FOR PHYSICAL EXAMINATION OF PLAINTIFF ALFRED SIMS is accepted, adopted, and made the Order of the Court.

IT IS SO ORDERED.

Dated: September 10, 2024

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE

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